

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Bob Holden, Governor • Stephen M. Mahfood, Director

www.dnr.mo.gov

Ms. Julia E. Lamborn-Gettinger
Midwest Oil Refining Company
1900 Walton Road
St. Louis, MO 63114

RE: Variance Petition ENF-04-1V
Midwest Oil Refining Company, St. Louis, Missouri
EPA ID # MOD006290803

Dear Ms. Lamborn-Gettinger:

The Missouri Department of Natural Resources has prepared and submitted a recommendation on the above-referenced variance petition to the Missouri Hazardous Waste Management Commission. The department is recommending that the commission grant the transporter's variance request. A copy of the department's letter to the commission, the summary and recommendation and the legal notice are included with this letter.

This recommendation notice is being provided to you in accordance with 10 CSR 25-8.124(5)(C)2.C. As outlined in 10 CSR 25-8.124(5)(D), a public hearing will be held if you as the petitioner submit a written request within 30 days of the date of the department's recommendation. Anyone who objects to the approval of the variance may also request a public hearing within 30 days of the date of the department's recommendation. If no public hearing is requested, the commission can decide on the matter no sooner than 30 days from the date of publication of the department's recommendation.

At this time, I ask that you submit mailing lists and mailing labels for: all record owners of adjoining property; the highest elected official of St. Louis County (or other counties if the facility property extends beyond one county); and the highest elected official of the city, town or village where the facility is located (or multiple officials if the facility is located in more than one jurisdiction).

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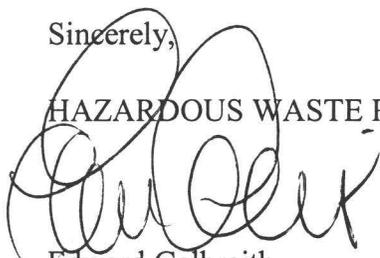
Ms. Julia E. Lamborn-Gettinger

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If you have any questions, or would like more information, please contact David Giarratano of my staff. Mr. Giarratano can be contacted at (573) 751-2246, via e-mail at david.giarratano@dnr.mo.gov, or by mail at the Missouri Department of Natural Resources, Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176.

Sincerely,

HAZARDOUS WASTE PROGRAM



Edward Galbraith
Director

EG:kft

Enclosures

c: Mr. Joe Bindbeutel, Attorney General's Office
Senator Christopher Bond, United States Senate,
Washington, D.C., Office and St. Louis District Office
Mr. Josh Campbell, Legislative Liaison, Missouri
Department of Natural Resources
Congressman Lacy Clay, United States House of Representatives,
Washington, D.C., and St. Louis District Office
Senator Rita Days, Missouri Senate
Mayor Bob Dody, City of Overland
Representative Barbara Fraser, Missouri House
of Representatives
Ms. Beth Koesterer, United States Environmental
Protection Agency Region 7
St. Louis Regional Office
Senator Jim Talent, United States Senate, Washington, D.C.,
Office and St. Louis District Office
Hazardous Waste Management Commissioners

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Hazardous Waste Management Commissioners

RE: Variance Order Case No. HW-04-2V
Midwest Oil Refining Company
1900 Walton Road
St. Louis, Missouri 63114

Dear Commissioners:

Enclosed is a copy of Midwest Oil Refining Company's request for a variance. The department has reviewed the variance petition and determined it to be a non-substantive petition. The department recommends that the Commission approve the transporter's variance request as outlined in an enclosure to this letter. If no request for a public hearing is received within 30 days of the posting of the notice, the department plans to request that the Commissioners sign the petition for the variance. A draft petition is enclosed pursuant to Section 260.405, RSMo.

If you have any questions or would like more information, please contact Mr. David Giarratano, of my staff, at (573) 751-2246 or me at (573) 751-2747 or at the Missouri Department of Natural Resources, Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176. Thank you.

Sincerely,

HAZARDOUS WASTE PROGRAM


Edward Galbraith
Director

EG:kft

Enclosures

c: Ms. Kara Valentine, Air and Land Protection Division,
Missouri Department of Natural Resources
Ms. Shelley Woods, Attorney General's Office

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MISSOURI DEPARTMENT OF NATURAL RESOURCES'
RECOMMENDATION ON MIDWEST OIL REFINING COMPANY
VARIANCE PETITION ENF-04-1V TO THE MISSOURI HAZARDOUS WASTE
MANAGEMENT COMMISSION

Introduction

Midwest Oil Refining Company (Midwest Oil), 1900 Walton Road, St. Louis, Missouri, has requested a variance from Missouri Hazardous Waste Management Regulation 10 CSR 25-12.010(2)(C). The variance request was received July 2, 2004, and was evaluated by the department as required by 10 CSR 25-8.124(5)(B). Midwest Oil is in the recycling business. It hauls only used oil, antifreeze, and kerosene. It has held a Missouri Hazardous Waste Transporter License since 1980, renewing the license annually. From 1997 to 2002, the company's yearly license fee was \$300. The variance petition, if granted by the Missouri Hazardous Waste Management Commission (Commission), would give Midwest Oil a one year variance relieving it from the \$3,322 of the \$3,623 license fee calculated for its new license year beginning June 30, 2004. Midwest Oil has paid \$300 for its license for the year beginning June 30, 2004.

Background

Midwest Oil has been in business since 1936 and currently employs six people. It is a used oil refiner and transporter. This small company maintains that it cannot afford the sudden increase in its transporter license annual fees from \$300 under the old per-vehicle calculation (which was in effect until September 2002) to \$3,454 in 2003 and \$3,623 in 2004. The latter fees were calculated using total licensed vehicle weight, percentage of company miles in Missouri, and percentage of Missouri loads that are hazardous waste. The company has written that it had to borrow the money in 2003 to pay the license fee but is unable to do so this year. Yet, without the license, the company cannot comply with the regulation requiring full payment of the fee for a transporter license. A hazardous waste transporter license is required to transport used oil.

Because Midwest Oil drives all its miles in Missouri, and because most of the company's loads are hazardous waste, the state mileage and hazardous waste load percentages are very high, resulting in a more than tenfold increase in transporter fees. This is especially hard on a small company whose total yearly mileage of all three trucks combined is only 17,910 miles – about what an average person drives in his own car in a year.

Since Midwest Oil's hazardous waste transporter license was due to expire three days after the department's Hazardous Waste Program (HWP) received the company's request for a variance, the program agreed to accept \$300 temporarily as the renewal license fee pending the Commission's decision on the variance. Payment was made, and the company's transporter license has been renewed, with the possibility of more money due.

The department has determined that this variance petition is "non-substantive" based on state statutory and regulatory criteria. All public notification procedures will be completed. The department is submitting this recommendation to the Commission as required by 10 CSR 25-8.124(5)(C).

Recommendation

The HWP has fully investigated the variance request. This request is a variance from payment of the hazardous waste transporter fee, which is currently calculated based on vehicle weight, percentage of miles in Missouri, and percentage of loads that are hazardous waste. Midwest Oil has paid its previous rate of \$300 and requests a variance from payment of the balance of \$3,322

of the current rate of \$3,623. Midwest Oil has provided the department with sufficient evidence of its inability to pay the calculated fee of \$3,623. The department reviewed three years of the company's tax forms and schedules to make a determination. Granting this variance will not permit the occurrence or continuance of a condition that unreasonably poses a present or potential threat to the health of humans or other living organisms. The new license fee calculation structure was never intended to place an unbearable financial burden on any company, or cause a company to go out of business. Moreover, there is a need for used oil recyclers and haulers in the state. Midwest Oil is caught in a situation which is not of its own making and which is not the department's aim. Therefore, the department recommends that the Commission grant Midwest Oil's variance petition for a period of one year.

**MISSOURI DEPARTMENT OF NATURAL RESOURCES
RECOMMENDS APPROVING VARIANCE FOR
MIDWEST OIL REFINING COMPANY**

The Missouri Department of Natural Resources received a variance petition from Midwest Oil Refining Company (Midwest Oil) on July 2, 2004. The department has reviewed the variance petition and determined it to be a non-substantive variance. The department recommends that the Missouri Hazardous Waste Management Commission approve the variance. The public is invited to review the variance petition and the department's recommendation.

Midwest Oil is an active used oil transporter, located at 1900 Walton Road, St. Louis, Missouri. Midwest Oil has been in business since 1936 and has held a license for used oil transportation since 1980.

In order to transport used oil in the state of Missouri, a company must apply for a hazardous waste transporter license and submit the appropriate fees. If the Commission approves the variance petition, Midwest Oil would be given a one-year relief from the current fee formula and would be required to pay under the previous fee structure.

A copy of Midwest Oil's variance petition can be viewed and copied at the following locations:

St. Louis County Library
Bridgeton Trails Branch
3455 McKelvey Road
Bridgeton, Missouri
Hours: 9:00 a.m. to 9:00 p.m. - Monday through Thursday
9:00 a.m. to 5:00 p.m. - Friday and Saturday

A copy may also be viewed by appointment at either of the following department offices:

St. Louis Regional Office
7545 South Lindbergh Boulevard, Suite 210
St. Louis, Missouri
Phone: (314) 416-2960

Hazardous Waste Program
1738 East Elm Street (lower level)
Jefferson City, Missouri
Phone: (573) 522-3345

Anyone who objects to the approval of the variance may request a public hearing by filing a hearing request within 30 days of this notice to Mr. David Giarratano, Missouri Department of Natural Resources, Hazardous Waste Program, Compliance/Enforcement Section, P.O. Box 176, Jefferson City, Missouri 65102-0176.

If no public hearing is requested, the commission can decide on the matter no sooner than 30 days from the date of the department's recommendation. For more information, please contact Mr. Giarratano at 1-800-361-4827 or (573) 751-2246.